IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT PETITION NO.2612 OF 2004

Milan B. Dalal & Anr. ..Petitioners

Vs.

Union of India & Ors. ..Respondents

Mr.Deepen Merchant, Senior Counsel i/b.
A.Rathod & Co., for the Petitioners.
Mr. Girish Kulkarni with Mr. N.D. Sharma i/b.
Pankaj Kapoor for respondent Nos. 1 and 2.
Ms.Geeta Shastri,AGP for respondent Nos.3 and 4.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATE: 15TH DECEMBER, 2006

P.C.

. Both the S.L.A.O., as well as the Defence Department have filed affidavits. From the said affidavits what emerges is that under award being LAQ/SR/416 dated 28th March, 1973 an area admeasuring 50113 sq. meters was acquired. On 23rd September, 1986 by another award being LAQ/SR-430 area admeasuring 1,16,574.30 sq. meters was acquired. This is so set out in paras.4 and 5 of the affidavit of Madhav Vithalrao Chimaji, Special Land Acquisition Officer (4). In para.8 it is set out that the balance area of 8067.6 sq. mts. of Survey Nos. 8 and 17 (pt.) of Wadhwan village is outside the boundary wall and the fenced boundary of the defence

area and is not in possession of the Defence Estate Officer. This is one of the properties which is the subject matter of the present petition. In para.7 of the affidavit of S.L.A.O. under Items 1 to 5 are set out details of area requisitioned, the area as per joint measurement, the area declared as per Section 6 and actual area acquired as per the Award.

. It is the case of the petitioners that apart from the acquired land the respondents are in possession of further land. It is not possible for this Court in the exercise of its writ jurisdiction to go into the disputed question of fact. It will be open to the petitioners to pursue such remedy at law which they are entitled to.

2. To obviate difficulties the respondents are willing to carry out the joint survey after the petitioners so apply under the provisions of the Maharashtra Land Revenue Code. If such an application is made the respondents to conduct the same according to law. With the above observation, petition stands disposed of.

(**F.I. REBELLO, J)**

(**ANOOP V. MOHTA J).**